



COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

M E M O R A N D U M

DATE: April 9, 2008

TO: Ray Giometti, Planning Commission Chair
Members of the Planning Commission

FROM: Thara Johnson, Associate Planner

SUBJECT: **Docket- 06-14 Zoning Districts permitting farmers markets, produce stands, mobile food vendors and temporary merchant vendors**

ISSUES:

Should all commercial and industrial zones permit farmers markets as a by-right use? What about mobile vendors? Should they be allowed in certain zones or regulated through a temporary use permit? How do we classify mobile food vendors vs. vendors with regular merchandise?

RECOMMENDATION:

- Restriction on mobile food vendors and pushcarts in all zones
- Exemptions for City sponsored functions and produce sales.
- Revise note 15 to allow farmers markets in the CD zone.
- Allow temporary merchant vendors subject to requirements for peddler licensing requirements in Title V and revise Title V to reflect amended zones.

BACKGROUND:

Currently, the City of Renton permits outdoor retail sales in six (6) zones; Center Downtown (CD), Center Village (CV), Commercial Arterial (CA), Industrial Light (IL), Industrial Medium (IM), and Industrial Heavy (IH) zoning districts. However, within the zoning use tables (4-2-060 and 4-2-070), notes 15 and 30 restrict the type of outdoor retail sales permitted in the CD, CV, CA zoning districts and IL, IM and IH zones respectively. Note 15 restricts the type of outdoor retail sales to “*building, hardware and garden*” uses in the CD, CV, and CA zoning districts. Note 30 limits the type of outdoor retail sales to “*sale of mobile or manufactured homes, building/ hardware/ garden materials, lumberyards, and monuments/ tombstones/ gravestones*” in the IL, IM, and IH zoning districts.

The definition of outdoor retail sales reads “*the display and sale of products and services primarily outside of a building or structure, including but not limited to garden supplies, tires and motor oil, produce sales, farmers’ markets, manufactured homes, burial*”

monuments, building and landscape materials, and lumber yards. This definition excludes adult retail uses, or vehicle sales.”

The definition of retail sales, outdoor appears to be in conflict with what is actually permitted within the zoning tables, since notes 15 and 30 preclude the uses of farmers markets and produce sales within the permitted zones.

Administrative Interpretations/Policy Decisions

Due to the inherent conflict between the definition of “retail, outdoor sales” and the restricted types of uses permitted under the zoning tables, the Development Services Division made an interpretation/policy decision regarding retail, outdoor sales in November 2004. The policy decision determined, at that time, that retail, outdoor sales facilities should be considered allowed uses in at least a few of the City’s commercial zones. Based on a review of the purposes and intent of the CA, CD, and CV zoning districts, the Development Services Division determined that farmers markets, and produce/flower stands would be a compatible use with the original intent of the Renton City Council in creating these districts.

The provision of temporary uses within the City’s code allows for uses that are temporary in nature to be permitted in any zoning district. Also, the temporary use permit process does allow mobile food vendors in zones not normally permitting them. However, the process for Temporary Use Permits is fairly stringent in terms of length of time and requirements for processing. Also, given the nature of the users in the case of produce vendors, flower stands and/or farmers markets which are typically temporary or seasonal in nature, the requirements for a temporary use permit may be considered burdensome and excessive.

Additionally, the Development Services Division interpreted the code with respect to temporary uses as only being applicable to uses that would not be regularly permitted in a respective zoning district. However, the uses of farmers markets, produce stands, and similar uses are by-right uses in the CA, CD, CV, IL, IM, and IH zoning districts, based on the November 2004 determination and therefore, a Temporary Use Permit application would not be the appropriate process to pursue.

Currently, the Development Services Division processes such uses through a Site Plan Review process, with the requirement that the applicant obtain a business license and approval from King County Department of Health. Additionally, issues of compatibility with the primary use, parking, and circulation are explored as part of the Site Plan Review process.

Issue Discussion

The Renton Municipal Code allows for uses associated with vendors, i.e. farmer’s markets, produce, and other vendors, to be permitted in the CA, CD, CV, IL, IM, and IH zones. After discussion at the March 12, 2008 Commission meeting, the proposal was re-evaluated based on feedback received at the meeting. There were concerns with permitting mobile food vendors, pushcarts or temporary merchant vendors in any zone

within the City, particularly commercial zones. Also, there was a concern that allowing farmers markets in all zones would cause unfair competition to the City sponsored farmer's market.

A review of current licensing requirements in Title V of the Renton Municipal Code indicates that peddlers are permitted subject to obtaining a business license. A peddler is defined as:

“A. All persons, both principals and agents, as well as employers and employees, who shall sell, offer for or expose for sale, or who shall trade, deal or traffic in any personal property or services in the City by going from house to house or from place to place or by indiscriminately approaching individuals.”

B. Sales by sample or for future delivery, and executory contracts of sale by solicitors or peddlers are embraced within the proceeding subsection; provided, however, that this Chapter is not applicable to any sales person or canvasser who solicits trade from wholesale or retail dealers within the City.

C. Any person, both principals and agents, as well as employers and employees, who, while selling or offering for sale any goods, wares, merchandise or anything of value, stands in a doorway or any unenclosed vacant lot, parcel of land or in any other place not used by such person as a permanent place of business.”

Title V, Chapter 20 of the Renton Municipal Code restricts locations of peddler's licenses to the CB and RB zones. However, since these zones no longer exist, this section will need to be modified so that current zones are referenced. The CB zone was an old zone that existed and has since been converted to the CA zone. However, old zoning maps from 1998, which was the year when the peddler's licensing requirements was brought into effect; do not reflect an RB zone, therefore, it is staff's opinion that the reference to the RB zone is a typo. Staff's suggestion is that the section of this code be revised to permit peddler's licenses in CA zones.

Review of Washington State Statutes (RCW 36.71.090) reveals that agricultural and farmers produce are exempt from licensing requirements and that no city or county may impose license requirements or prohibit such uses through an ordinance. The statute also permits certain temporary food establishments which sell products from a list of “retail-eligible species” which are limited to “commercially harvested salmon, crab, and sturgeon” may only be required to obtain a retail license or “endorsement” and prohibits cities and counties from passing ordinances which impose additional restrictions or requirements.

There are certain categories of mobile food vendors and temporary merchant vendors that provide an invaluable service. Some vendors are associated with City sponsored functions such as Renton River Days. Other uses include mobile blood donation services, mobile pet grooming facilities, girl-scout cookies, and other similar uses. These would be uses which either fall under the parameters of non-profit or charitable

organizations that are exempt under Title V or require a peddler's license and would not require any land use entitlement. Additionally, uses such as produce stands are also exempt under Title V, which complies with state statute.

Another issue of discussion at the Commission related to comparisons between adjacent jurisdictions and a review of requirements for these areas. Based on a review of regulations in the cities of Bellevue, Redmond, Issaquah, and Kirkland, it appears that all these jurisdictions permit the location of temporary merchant vendors and mobile food vendors in specific zones, primarily in the downtown districts. Each of the cities apply a different term such as "temporary use permit", "special event license", "temporary use", however, the procedure to obtain these entitlements is similar to obtaining a peddler's license within the City of Renton.

An option may be to permit farmers markets only in the CD zone, with exemptions from permitting requirements for all City sponsored events. The exemption would be referenced in the RMC 4-9-240 which speaks to temporary use permits and exempts certain uses from this process. Also, mobile food vendors would be restricted in all zones. However, RMC 4-9-240 permits mobile food vendors in zones not normally permitting them, and since the intent is to not permit them in any zone, they could be permitted through the Temporary Use Permit process on a case-by-case basis.

Staff visited three mobile food vendors, all of which were taco wagons. One was located adjacent to Café Donuts on Rainier Ave and S 3rd Pl, which is zoned CA, the other was located at the AMPM on Rainier Ave, which is also zoned CA, and the third is located at the VietWah Asian Market, which is zoned CV. However, to date, mobile food vendors have been permitted in any zone based on the policy interpretation in 2004 and not based on the peddler's licensing requirements, whose definition, although not specific does not appear to include food but "personal property or services". Therefore, these existing businesses would not be permitted to operate under the proposed modifications, unless a Temporary Use Permit was obtained or came under the umbrella of a City sponsored function or event.

Another inconsistency exists with regard to note 81, which references "pushcarts and kiosks" and allows them in the UC-N1 and UC-N2 zones. Typically, this note would need to be amended to remove this language in order to be consistent with the intent of this proposal, part of which is to restrict mobile food vendors. However, a development agreement is in place with Boeing which vested all existing development standards at the time it went into effect, on December 10, 2003. Since the existing development standards are vested, reference to any revised language would not be applicable; therefore, staff suggests no changes to note 81.

The definition for outdoor retail sales would also need to be modified so that the reference to produce stands are removed; since produce stands and other agricultural and farm produce are exempt from licensing requirements and therefore land use code through state mandated statutes. Also, another change which is required is a revision to note 15 which would restrict the location of farmers markets in the CD zone and the

reference to size restrictions is currently incorrect, the reference is to 4-2-120A and should be 4-2-120B.

Uses such as espresso stands, although not unique are prevalent in the City and are by right uses in zoning districts where “eating and drinking establishments” are permitted. The definition for eating and drinking establishments reads “*A retail establishment selling food and/or drink for consumption on the premises or for take-out, including accessory on-site food preparation. This definition includes, but is not limited to, restaurants, cafes, microbrew establishments, and espresso stands. This definition excludes taverns; fast food; entertainment clubs; dance clubs; and/or dance halls*”. The issue of identifying locations or zones for mobile vendors similar to other jurisdictions such as Redmond, Bellevue, Kirkland, or Issaquah which would promote vitality in the downtown areas may be a matter for discussion through the Community Planning Initiative.

Definitions for Farmers Markets and Mobile Food Vendors

Currently, the Renton Municipal Code does not have a definition for either farmers markets or mobile food vendors, although both these uses are restricted and referenced in the code. Therefore, suggested language includes:

Farmers Market: A public market at which farmers and often other vendors sell agricultural produce, which includes the sale of flowers directly to consumers.

Mobile Food Vendor: A person who sells retail food or beverages, to the public from any vehicle, which is designed to be readily movable and located within the boundaries of the City. Mobile food vendors include pushcarts, mobile kitchens, hot dog carts, pretzel wagons, or similar uses. Foods are limited to prepackaged food unless the unit is equipped and approved to handle food preparation. Any unit that requires direct hand contact with the food shall have a hand washing sink and comply with King County Health Department requirements.

Revised Definitions

Currently, the definition for outdoor retail sales references “farmers markets and produce stands”, however, if produce stands are exempt from licensing or code requirements, then they should be removed from the definition. The following change to the definition is proposed:

“the display and sale of products and services primarily outside of a building or structure, including but not limited to garden supplies, tires and motor oil, ~~produce sales~~, farmers’ markets, manufactured homes, burial monuments, building and landscape materials, and lumber yards. This definition excludes adult retail uses, or vehicle sales.”

COMPREHENSIVE PLAN COMPLIANCE:

These changes comply with the Comprehensive Plan policies for the CN, CV, CA, IL, IM, and IH zoning districts. There are a number of Comprehensive Plan policies associated with these six (6) zoning districts, policies LU-CCC, LU-DDD, LU-WWW,

LU-YYY, and LU-ZZZ. The policies encourage a diverse range of commercial and industrial activities, which would be enhanced by altering technical issues in the code and aligning the development code with the Comprehensive Plan.

CONCLUSION:

The proposed revision includes restricting mobile food vendors in all zones, permitting temporary merchant vendors subject to peddler's license requirements and farmer's markets in the CD zone. The proposed change amends existing discrepancy between existing code and general practice, and therefore will further the objectives of the Comprehensive Plan policies and make for consistent development regulations.